result was reached, even despite another clause excepting suicide as a risk. *Mutual Reserve Fund Life Ass'n* v. *Payne*, 32 S. W. 1063 (Tex. Civ. App.); *Royal Circle* v. *Achterrath*, 204 Ill. 549, 68 N. E. 492. It was felt that the *Ritter* case had committed the Supreme Court to a contrary view. RICHARDS, LAW OF INSURANCE, 3 ed., § 382. But that court has been by degrees approaching modern tendencies already noted. See 21 HARV. L. REV. 530. It upheld the Missouri statute excluding suicide as a defense. *Whitfield* v. *Ætna Life Insurance Co.*, 205 U. S. 489. And in the principal cases, where suicide was neither contemplated by the applicant nor expressly excluded, it recognizes it as a risk. Also the Supreme Court now leaves the several states free to decide whether, on grounds of public policy, suicide exempts the insurer from liability. The *Ritter* case promulgated a set rule that a silent policy implied an exception for suicide. The principal cases are more consonant with the doctrine that federal courts should give effect to such views, not clearly wrong, as states adopt.

INTOXICATING LIQUORS — EIGHTEENTH AMENDMENT — INTERPRETATION OF THE VOLSTEAD ACT. — Prior to the effective date of the Volstead Act, the appellant was lessee of a room in a warehouse, and had stored intoxicating liquor therein. By a bill alleging that he was in exclusive possession and control of this liquor and that he intended it only for personal use, he sought to enjoin the warehouse company from delivering it to government agents. A motion to dismiss the bill was sustained. *Held*, that this was error. *Street* v. *Lincoln Safe Deposit Company*, U. S. Sup. Ct., October Term, 1920, No. 278.

The plaintiff sought to force the defendant, a collector of internal revenue, to deliver to the plaintiff for personal use in his home a barrel of whisky belonging to him and stored by him, before the effective date of the Volstead Act, in a bonded government warehouse. *Held*, that a motion to dismiss be granted. *Corneli* v. *Moore*, U. S. Dist. Ct. of Mo., 11 Dec. 1920.

The Volstead Act forbids possession of liquor except as authorized. See 41 STAT. AT L. 305 *et seq.*, Title II, § 3. It expressly authorizes possession in a home for use therein. See *Id.*, § 33. The Supreme Court decides that it impliedly authorizes possession for this same purpose though the liquor possessed be located outside the home. The District Court decides that even if the plaintiff's right to a permit to transport this liquor is settled by the *Street* case, yet the defendant need not deliver unless the plaintiff shows such a permit. Unfortunately the decision is also based upon provisions of the War Time Prohibition Act. See 40 STAT. AT L. 1046. Neither case answers the important question: does the Act impliedly authorize A to possess for B liquor owned by B and intended for use in his home? The courts can hardly go to this length without opening the way to many serious violations of the Volstead Act. It may adopt the view of Justice McReynolds that provisions calling for confiscation of lawfully acquired liquor are unconstitutional. See *Street* v. *Lincoln Safe Deposit Company*, *supra*. Considering the strong public policy declared by the Eighteenth Amendment such a result is highly improbable.

LANDLORD AND TENANT — TENANCY FROM YEAR TO YEAR — DOES OPTION TO PURCHASE CONTINUE WHEN TENANT FOR TERM HOLDS OVER. — The plaintiff a tenant for a term held over and after the expiration of his lease sought to exercise an option to purchase contained in the lease. *Held*, that he could not do so. *Bradbury* v. *Grimble*, 55 L. J., 296.

The principal case is decided on the theory that as an option to purchase is not a covenant regulating the relation of landlord and tenant it will not be imported into the tenancy which arises when a tenant for a term holds over. It is usually said that the terms of the former lease continue as far as they are applicable to and consistent with the new tenancy. See 2 TIFFANY, LANDLORD

AND TENANT § 210c; *King* v. *Wilson*, 98 Va. 259, 35 S. E. 727; *Dougal* v. *McCarthy*, [1893] L. R. 1 Q. B. 736. And whether a term is applicable is a question of fact for the jury. *Oakley* v. *Monck*, [1866] L. R. 1 Ex. 159; *Mayor of Thetford* v. *Tyler*, 8 Q. B. 95. In an analogous situation consistency with the tenancy from year to year is the test. Where a tenant enters under an agreement for a lease, which is never executed, and pays an annual rent, a tenancy from year to year arises. Into this tenancy the terms of the intended lease, as far as they are applicable, are imported. *Thomson* v. *Amey*, 12 A. & E. 476. It would seem that the test should be the same in both these situations as the tenancy from year to year is, in each case, created by operation of law. REDMAN, LANDLORD AND TENANT, 6 ed., 12. The principal case stands alone in failing to use the consistency test. The result also appears wrong; for in answer to the question of fact it would seem that an option to purchase is consistent with a tenancy from year to year. *D'Arras* v. *Keyser*, 26 Pa. 249.

LEGACIES AND DEVISES — ADEMPTION — DEVISE OF RENT CHARGE: EFFECT OF TESTATOR'S PURCHASE OF THE FEE. — A will contained a devise of a rent charge. Later the testator bought in the fee, the conveyance expressly stating that there was a merger. *Held*, that there was an ademption of the rent charge. *In re Bick*, [1920] 1 Ch. 488.

Ademption occurs whenever the specific thing has ceased to belong to the testator. *In re Bridle*, 4 C. P. D. 336. And the application of this doctrine does not depend upon the intention of the testator. *May* v. *Sherrard*, 115 Va. 617, 79 S. E. 1026; *Stanley* v. *Potter*, 2 Cox 180. Although the principle is usually strictly applied, a mere change in the form of the *res* is held not to involve ademption. *In re Clifford*, [1912] 1 Ch. 29; *Spinney* v. *Eaton*, 111 Me. 1, 87 Atl. 378; *Clough* v. *Clough*, 3 Myl. & K. 296. The present case is one of a class of cases where the change, although it does not result in a surrender of the *res*, is more than formal. Thus, on purchase of the fee, a leasehold held by the purchaser merges therein and a specific legacy of such a leasehold is adeemed. *Emuss* v. *Smith*, 2 De G. & S. 722; *Capel* v. *Girdler*, 9 Ves. Jr. 509. Similarly, a bequest of a sublease is adeemed by taking an assignment of the original lease. See *Porter* v. *Smith*, 16 Sim. 251. In the converse case it has been held that a devise of a specific tract of land is not adeemed *in toto* by a subsequent lease. *Brady* v. *Brady*, 78 Md. 461, 28 Atl. 515.

MASTER AND SERVANT — WORKMEN'S COMPENSATION ACTS — AMOUNT OF COMPENSATION: TIPS RECEIVED IN COURSE OF EMPLOYMENT. — Claimant was a truck driver, engaged in delivering meat. Without the knowledge of his employer, he assisted his employer's customers in hanging up meat after delivery, and received tips for these services. *Held*, that the tips should not be considered in fixing the amount of compensation. *Begendorf* v. *Swift & Co.*, 183 N. Y. Supp. 917.

Workmen's Compensation Acts provide for compensation based on the "earnings" or "wages" of the employee. See 6 EDW. 7, c. 58, sched. 1, § 2; 1913 NEW YORK LAWS, c. 816, §§ 3 (9), 14. But such "earnings" or "wages" include more than the actual money paid by the employer. That tips may be taken into account in some cases is indisputable. *Penn* v. *Spiers & Pond, Ltd.*, [1908] 1 K. B. 766 (waiter); *Bryant* v. *Pullman Co.*, 188 App. Div. 311, 177 N. Y. Supp. 488, aff'd 228 N. Y. 579, 127 N. E. 909 (porter); *Sloat* v. *Rochester Taxicab Co.*, 177 App. Div. 57, 163 N. Y. Supp. 904, aff'd 221 N. Y. 491, 116 N. E. 1076 (taxicab driver). *Capen* v. *Terminal Hotel Co.*, 1 Cal. Industr. Acc. Comm., pt. 2, 562 (bell-boy). The principal case, however, is distinguishable, and the decision seems correct. The problem is one of statutory construction, to determine under what circumstances tips are a part of "earnings" or "wages" within the meaning of the statutes. The line may properly be